

OFFICIAL GAZETTE



GOVERNMENT OF GOA

EXTRAORDINARY

GOVERNMENT OF GOA

Finance (Expenditure) Department

Order

No. 5/2/93-Fin(R&C)(1)

Whereas M/s. Sesa Goa Ltd., Panaji having their plant at Navelim (Amona) in Bicholim Taluka (hereinafter called the 'said industry'), holding Registration Certificate No. P/569 under the Goa Sales Tax Act, 1964 (Act 4 of 1964) and certificate No. 374 under the Central Sales Tax Act, 1956 (Central Act 74 of 1956) have applied for extension of the benefit of exemption in terms of second proviso to the Government Notification No. 5/4/87-Fin(R&C)(1) dated 20-4-87 read with Notification No. 5/2/93-Fin(R&C)(B) dated 14-7-95, published in Official Gazette Series II No. 15, Extraordinary No. 2, dated 17-7-95 (hereinafter called the "said Notifications");

And Whereas the Government of Goa, considering the nature of the process carried out by the said industry, sought advice of the Goa State Pollution Control Board, Panaji in the matter;

And Whereas the Goa State Pollution Control Board, Panaji vide its report No. 8/11/93-PCB dated 18-6-93 opined that the process carried out by the said industry is pollution free.

Now, therefore, in pursuance of the powers vested in terms of the second proviso to the said Notifications, the Government of Goa, on being satisfied by the opinion given by the Goa State Pollution Control Board, Panaji that the process carried out by the said industry in their plant is pollution free, hereby extends the benefit of exemption under the said Notifications to the said industry subject to fulfilment of conditions in the said Notifications read with the following conditions, namely:—

- (i) The quantum of exemption shall be restricted to 12 years or till the reaching of combined tax, liability amount i. e. of Local and Central Sales Tax equal to twice the capital cost invested by the said industry in land, building and machinery only, whichever is earlier;
- (ii) In computing the cost referred to in (i) above, assets as on the date of production and the additions made till the conclusion of next financial year only will be considered;
- (iii) The benefit of exemption shall be subject to timely filing of quarterly returns prescribed under the Goa Sales Tax Act, 1964 (Act 4 of 1964), and the Central Sales Tax Act, 1956 (Central Act 74 of 1956), and claiming of the turnover therein;
- (iv) The sale of the goods manufactured by the said industry shall be exempted from tax so long as the industry continues to be under the present ownership and the

exemption shall stand terminated forthwith if there is any change in ownership of the said industry;

(v) If the measures adopted by the said industry to control pollution are at any time found to be inadequate or if the industry causes any threat to the environment, the benefit shall stand withdrawn forthwith; and

(vi) The exemption under this Order shall be available only during the effectivity of the period of extended exemption under Entry 35 of the Second Schedule appended to the Goa Sales Tax Act, 1964 (Act 4 of 1964).

By order and in the name of the Governor of Goa.

S. V. Madhalkar, Under Secretary (Finance - Exp.)

Panaji, 27th September, 1995.

Order

No. 5/2/93-FIN (R & C) (2)

Whereas M/s. Sesa Industries, Ltd., Panaji, having their plant at Navelim (Amona) Bicholim Taluka (hereinafter called the "said industry"), holding Registration Certificate No. P/6575 under the Goa Sales Tax Act, 1964 (Act 4 of 1964) and certificate No. P/CST/4396 under the Central Sales Tax Act, 1956 (Central Act 74 of 1956), have applied for extension of the benefit of exemption in terms of second proviso to the Government Notification No. 5/4/87-Fin (R&C) (1) dated 20-4-87, read with Notification No. 5/2/93-Fin (R&C) (B) dated 14-7-95, published in Official Gazette Series II, No. 15, Extraordinary No. 2, dated 17/7/95 (hereinafter called the "said Notification");

AND WHEREAS the Government of Goa, considering the nature of the process carried out by the said industry, sought advice of the Goa State Pollution Control Board, Panaji in the matter;

AND WHEREAS the Goa State Pollution Control Board, Panaji vide its report No. 6/54/94-PCB/273 dated 8-6-95 opined that the process carried out by the industry is pollution free.

Now, therefore, in pursuance of the powers vested in terms of the second proviso to the said Notifications, the Government of Goa, on being satisfied by the opinion given by the Goa State Pollution Control Board, Panaji that the process carried out by the said industry in their plant is pollution free, hereby extends the benefit of exemption under the said Notifications to the said industry subject to fulfilment of conditions in the said Notifications read with the following conditions, namely:—

- (i) The quantum of exemption shall be restricted to 12 years or till the reaching of tax combined li-

bility amount i. e. of Local and Central Sales Tax equal to twice the capital cost invested by the said industry in land, building and machinery only, whichever is earlier.

- (ii) In computing the cost referred to in (i) above, assets as on the date of production and the additions made till the conclusion of next financial year only will be considered;
- (iii) The benefit of exemption shall be subject to timely filing of quarterly returns prescribed under the Goa Sales Tax Act, 1964 (Act 4 of 1964), and the Central Sales Tax Act, 1956 (Central Act 74 of 1956), and claiming of the turnover therein;
- (iv) The sale of the goods manufactured by the said industry shall be exempted from tax so long as the industry continues to be under the present ownership and the exemption shall stand terminated forthwith if there is any change in ownership of the said industry;
- (v) If the measures adopted by the said industry to control pollution are at any time found to be inadequate or if the industry causes any threat to the environment, the benefit shall stand withdrawn forthwith, and
- (vi) The exemption under this Order shall be available only during the effectivity of the period of extended exemption under entry 85 of the Second Schedule appended to the Goa Sales Tax Act, 1964 (Act 4 of 1964).

By order and in the name of the Governor of Goa.

S. V. Madhalkar, Under Secretary (Finance - Exp.)

Panaji, 27th September, 1995.

Order

No. 5/2/93-Fin(R&C)/(3)

Whereas the Government of Goa vide Notification No. 5/4/87-Fin(R&C)(2) dated 20-4-1987 and 5/4/87-Fin(R&C)(1) dated 20-4-87 (hereinafter referred to as the "said Notification"), issued in terms of sub-section (5) of Section 8 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) (hereinafter referred to as the 'said Act') exempted the sales of goods manufactured, processed or assembled by any Small Scale Industry subject to fulfilment of certain conditions as specified therein which were pari-materia with the entry 68/85 of the Second Schedule appended to the Goa Sales Tax Act, 1964 (Act 4 of 1964) (hereinafter referred to as the "State Act"), for a period of 15 years/12 years, as the case may be;

And whereas subsequently the Supreme Court vide judgement dated 16-1-1992 in the case of Pine Chemicals Ltd. (1992) 85 STC 432 (S.C.) has held that sales of goods of the nature of one covered by entry 68/85 of the Second Schedule appended to the State Act is general exemption and as such eligible for benefit of exemption under section 8(2A) of the said Act (hereinafter referred to as the said case);

And whereas in furtherance of Supreme Court judgement in the said case no modifications in the said Notifications were carried out so as to bring them in conformity with the entry 68/85 of the Second Schedule appended to the said State Act;

And whereas the Supreme Court in Review Petitions in the case of Commissioner of Sales Tax, Jammu and Kashmir and Others V/s Pine Chemicals Ltd. and Others (1995) 96 STC 355 (S.C.) have reviewed its decision in the said case and held that the exemption of the nature of one covered under entry 68/85 of the Second Schedule appended to the State Act is not a general exemption as a result the inter-state sales made by Small Scale Industries/Medium and Large Scale Industries of goods manufactured, processed or assembled by them do not fall within the purview of section 8(2A) of the said Act;

And whereas the Government of Goa vide Notification No. 5/2/93-Fin(R&C) (A) dated 14-7-95 and No. 5/2/93-Fin(R&C) (B) dated 14-7-95 modified the said Notifications so as to bring them in conformity with the provisions of entry 68/85 of the Second Schedule appended to the State Act with effect from 17-7-95 as a result the intervening period i. e. from pronouncement of the judgement of Hon'ble Supreme Court (dated 24-10-94) to date of the publication of Notifications referred to above remains uncovered which caused difficulty to industries which have treated the interstate sales as exempted from tax based on the decision of the Supreme Court in Pine Chemicals Ltd. reported (1992) 85 STC 432 (S.C.);

And whereas it is found necessary to remove the said difficulty. Now, therefore, in exercise of the powers conferred by sub-section (2) of section 9 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) read with section 38 of the Goa Sales Tax Act, 1964 (Act 4 of 1964) the Government of Goa hereby directs that inter-state sales made by any Small Scale/Medium and Large Scale Industries during the intervening period from 24-10-94 to 16-7-95 otherwise qualified for exemption under entry 68/85 of the Second Schedule appended to the State Act, shall be deemed to be exempt from Central Sales Tax under sub-section (5) of section 8 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) subject to following conditions; namely:—

- (i) The dealer (industry) claiming exemption should not have collected any central sales tax on the sales transactions during the intervening period referred to above;
- (ii) The dealer (industry) should not be in arrears of payment of sales tax or any other dues under the State Act or under the Central Sales Tax Act, 1956 (Central Act 74 of 1956);
- (iii) The registration under both Sales Tax Acts should be in force during the intervening period; and
- (iv) The dealer (industry) claiming exemption should produce all the certificates from the Competent Authority as required under entry 68/85 appended to the Second Schedule of the Goa Sales Tax Act, 1964 (Act 4 of 1964).

By order and in the name of the Governor of Goa.

S. V. Madhalkar, Under Secretary (Finance Exp.).

Panaji, 27th September, 1995.